

AMENDED IN SENATE JUNE 28, 2009

AMENDED IN SENATE JUNE 9, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 530

Introduced by Assembly Member Krekorian

February 25, 2009

An act to amend and repeal Section 3485 of, and to add, repeal, and add Section 3486 of, the Civil Code, to amend Section 1161 of the Code of Civil Procedure, and to repeal *and add* Section 11571.1 of the Health and Safety Code, relating to unlawful detainer.

LEGISLATIVE COUNSEL'S DIGEST

AB 530, as amended, Krekorian. Unlawful detainer: controlled substances and firearms.

Existing law establishes the criteria for determining when a tenant is guilty of unlawful detainer, including conduct involving illegally selling a controlled substance, or the commission of an offense involving the unlawful possession or use of illegal weapons or ammunition or the use of the premises to further that purpose. Any of those acts may be deemed to constitute committing a nuisance on the premises.

Existing law authorizes, in specified counties, only until January 1, 2010, a city prosecutor or city attorney to file an action for unlawful detainer in the name of the people against any person who is in violation of the nuisance or the illegal purpose provisions of the unlawful detainer provision described above, with respect to controlled substances or unlawful weapons or ammunition. These provisions also impose specified reporting requirements regarding the implementation of these

programs upon the city attorney and city prosecutor of each participating jurisdiction. The information compiled pursuant to these provisions is reported annually to the Judicial Council on or before January 30 of each year. The Judicial Council is required to report to the Legislature, as specified.

This bill would expand the scope of the latter provisions to apply in additional specified counties, revise the reporting requirements to require, among other changes, that the reports be made to the California Research Bureau, rather than the Judicial Council, and that the California Research Bureau report to the Legislature, as specified, and would make the provisions operative until January 1, 2014. In the County of Los Angeles, however, in courts that have a specified jurisdiction, the provision authorizing an action for unlawful detainer with respect to a violation relating to controlled substances would be operative indefinitely, except as specified. The bill would also make related technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3485 of the Civil Code is amended to
2 read:
3 3485. (a) To abate the nuisance caused by illegal conduct
4 involving an unlawful weapons or ammunition purpose on real
5 property, the city prosecutor or city attorney may file, in the name
6 of the people, an action for unlawful detainer against any person
7 who is in violation of the nuisance or illegal purpose provisions
8 of subdivision 4 of Section 1161 of the Code of Civil Procedure,
9 with respect to that unlawful weapons or ammunition purpose. In
10 filing this action, which shall be based upon an arrest report or
11 other report by a law enforcement agency, reporting an offense
12 committed on the property and documented by the observations
13 of a police officer, the city prosecutor or city attorney shall use
14 the procedures set forth in Chapter 4 (commencing with Section
15 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except
16 that in cases filed under this section, the following also shall apply:
17 (1) (A) Prior to filing an action pursuant to this section, the city
18 prosecutor or city attorney shall give 30 calendar days' written
19 notice to the owner, requiring the owner to file an action for the

1 removal of the person who is in violation of the nuisance or illegal
2 purpose provisions of subdivision 4 of Section 1161 of the Code
3 of Civil Procedure with respect to an unlawful weapons or
4 ammunition purpose.

5 (B) This notice shall include sufficient documentation
6 establishing a violation of the nuisance or illegal purpose provisions
7 of subdivision 4 of Section 1161 of the Code of Civil Procedure
8 and an advisement to the owner of the assignment provision
9 contained in subparagraph (D). The notice shall be served upon
10 the owner and the tenant in accordance with subdivision (e).

11 (C) The notice to the tenant shall, *in at least 14-point bold type*,
12 meet the following requirements:

13 (i) The notice shall contain the following language:

14 “(Date)

15 (Name of tenant)

16 (Address of tenant)

17 Re: Civil Code Section 3485

18 Dear (name of tenant):

19 This letter is to inform you that an eviction action may soon be
20 filed in court against you for suspected firearms activity. According
21 to state law, Civil Code Section 3485 provides for eviction of
22 persons engaging in such conduct, as described below.

23 (Name of police department) records indicate that you, (name
24 of arrestee), were arrested on (date) for violations of (list violations)
25 on (address of property).

26 A letter has been sent to the property owner(s) advising of your
27 arrest and the requirements of state law, as well as the landlord’s
28 option to assign the unlawful detainer action to the (name of city
29 attorney or prosecutor’s office).

30 A list of legal assistance providers is provided below. Please
31 note, this list is not exclusive and is provided for your information

only; the (name of city attorney or prosecutor's office) does not endorse or recommend any of the listed agencies.

Sincerely,

(Name of deputy city attorney or city prosecutor)

Deputy City (Attorney or Prosecutor)

Notice to Tenant: This notice is not a notice of eviction. You should call ~~(name of attorney)~~ *(name of the city attorney or prosecutor pursuing the action)* at (telephone number) or a legal assistance provider to stop the eviction action if any of the following is applicable:

(i)

(1) You are not the person named in this notice.

(ii)

(2) The person named in the notice does not live with you.

(iii)

(3) The person named in the notice has permanently moved.

(iv)

(4) You do not know the person named in the notice.

(5) *You want to request that only the person involved in the nuisance be evicted, allowing the other residents to stay.*

(v)

(6) You have any other legal defense or legal reason to stop the eviction action. A list of legal assistance providers is attached to this notice. Some provide free legal assistance if you are eligible.”

(ii) The notice shall be provided to the tenant in English and, as translated, in all of the languages identified in subdivision (a) of Section 1632 of the Civil Code.

(D) The owner shall, within 30 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to the city prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant.

1 (E) The assignment shall be on a form provided by the city
2 prosecutor or city attorney and may contain a provision for costs
3 of investigation, discovery, and reasonable attorney's fees, in an
4 amount not to exceed six hundred dollars (\$600).

5 (F) If the city prosecutor or city attorney accepts the assignment
6 of the right of the owner to bring the unlawful detainer action, the
7 owner shall retain all other rights and duties, including the handling
8 of the tenant's personal property, following issuance of the writ
9 of possession and its delivery to and execution by the appropriate
10 agency.

11 (2) Upon the failure of the owner to file an action pursuant to
12 this section, or to respond to the city prosecutor or city attorney
13 as provided in paragraph (1), or having filed an action, if the owner
14 fails to prosecute it diligently and in good faith, the city prosecutor
15 or city attorney may file and prosecute the action, and join the
16 owner as a defendant in the action. This action shall have
17 precedence over any similar proceeding thereafter brought by the
18 owner, or to one previously brought by the owner and not
19 prosecuted diligently and in good faith. Service of the summons
20 and complaint upon the defendant owner shall be in accordance
21 with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the
22 Code of Civil Procedure.

23 (3) If a jury or court finds the defendant tenant guilty of unlawful
24 detainer in a case filed pursuant to paragraph (2), the city
25 prosecutor or city attorney may be awarded costs, including the
26 costs of investigation and discovery and reasonable attorney's fees.
27 These costs shall be assessed against the defendant owner, to whom
28 notice was directed pursuant to paragraph (1), and once an abstract
29 of judgment is recorded, it shall constitute a lien on the subject
30 real property.

31 (4) This article shall not prevent a local governing body from
32 adopting and enforcing laws, consistent with this article, relating
33 to weapons or ammunition abatement. If local laws duplicate or
34 supplement this article, this article shall be construed as providing
35 alternative remedies and not preempting the field.

36 (5) This article shall not prevent a tenant from receiving relief
37 against a forfeiture of a lease pursuant to Section 1179 of the Code
38 of Civil Procedure.

39 (b) In any proceeding brought under this section, the court may,
40 upon a showing of good cause, issue a partial eviction ordering

1 the removal of any person, including, but not limited to, members
2 of the tenant's household if the court finds that the person has
3 engaged in the activities described in subdivision (a). Persons
4 removed pursuant to this section may be permanently barred from
5 returning to or reentering any portion of the entire premises. The
6 court may further order as an express condition of the tenancy that
7 the remaining tenants shall not give permission to or invite any
8 person who has been removed pursuant to this subdivision to return
9 to or reenter any portion of the entire premises.

10 (c) For purposes of this section, "unlawful weapons or
11 ammunition purpose" means the illegal use, manufacture, causing
12 to be manufactured, importation, possession, possession for sale,
13 sale, furnishing, or giving away of any of the following:

14 (1) A firearm, as defined in subdivision (b) of Section 12001
15 of the Penal Code.

16 (2) Any ammunition, as defined in paragraph (2) of subdivision
17 (b) of Section 12316 or subdivisions (a) and (b) of Section 12323
18 of the Penal Code.

19 (3) Any assault weapon, as defined in Section 12276, 12276.1,
20 or 12276.5 of the Penal Code.

21 (4) Any .50 BMG rifle, as defined in Section 12278 of the Penal
22 Code.

23 (5) Any tear gas weapon, as defined in Section 12402 of the
24 Penal Code.

25 (d) Notwithstanding subdivision (b) of Section 68097.2 of the
26 Government Code, a public entity may waive all or part of the
27 costs incurred in furnishing the testimony of a peace officer in an
28 unlawful detainer action brought pursuant to this section.

29 (e) The notice and documentation described in paragraph (1)
30 of subdivision (a) shall be given in writing and may be given either
31 by personal delivery or by deposit in the United States mail in a
32 sealed envelope, postage prepaid, addressed to the owner at the
33 address known to the public entity giving the notice, or as shown
34 on the last equalized assessment roll, if not known. Separate notice
35 of not less than 30 calendar days and documentation shall be
36 provided to the tenant in accordance with this subdivision. Service
37 by mail shall be deemed to be completed at the time of deposit in
38 the United States mail. Proof of giving the notice may be made by
39 a declaration signed under penalty of perjury by any employee of

1 the public entity which shows service in conformity with this
2 section.

3 (f) This section shall apply only to the following courts:

4 (1) In the County of Los Angeles, any court having jurisdiction
5 over unlawful detainer cases involving real property situated in
6 the City of Los Angeles or the City of Long Beach.

7 (2) In the County of San Diego, any court having jurisdiction
8 over unlawful detainer cases involving real property situated in
9 the City of San Diego.

10 (3) In the County of Alameda, any court with jurisdiction over
11 unlawful detainer cases involving real property situated in the City
12 of Oakland.

13 (4) In the County of Sacramento, any court with jurisdiction
14 over unlawful detainer cases involving real property situated in
15 the City of Sacramento.

16 (g) (1) The city attorney and city prosecutor of each
17 participating jurisdiction shall provide to the California Research
18 Bureau the following information:

19 (A) The number of notices provided pursuant to paragraph (1)
20 of subdivision (a).

21 (B) For each notice provided pursuant to paragraph (1) of
22 subdivision (a), the following information:

23 (i) The name and age, as provided by the landlord, of each
24 person residing at the noticed address.

25 (ii) Whether the person has previously received a notice pursuant
26 to this section from the reporting city attorney or prosecutor, and
27 if so, whether the tenant vacated or was evicted as a result.

28 (C) For the tenant receiving the notice, whether the tenant has
29 previously been arrested (other than an arrest that is the basis of
30 this notice) for any of the offenses specified in subdivision (c).

31 (D) The number of cases filed by an owner, upon notice.

32 (E) The number of assignments executed by owners to the city
33 attorney or city prosecutor.

34 (F) The number of three-day, 30-day, or 60-day notices issued
35 by the city attorney or city prosecutor.

36 (G) The number of cases filed by the city attorney or city
37 prosecutor.

38 (H) The number of times that an owner is joined as a defendant
39 pursuant to this section.

1 (I) For each case filed by an owner, the city attorney, or the city
2 prosecutor, the following information:

3 (i) The number of judgments ordering an eviction or partial
4 eviction, and specifying whether each was a default judgment,
5 stipulated judgment, or judgment following trial.

6 (ii) The number of cases, listed by separate categories, in which
7 the case was withdrawn or in which the tenant prevailed.

8 (iii) The number of other dispositions, and specifying the
9 disposition.

10 (iv) The number of defendants represented by counsel.

11 (v) Whether the case was a trial by the court or a trial by a jury.

12 (vi) Whether an appeal was taken, and, if so, the result of the
13 appeal.

14 (vii) The number of cases in which partial eviction was
15 requested, and the number of cases in which the court ordered a
16 partial eviction.

17 (J) For each case in which a notice was issued, but no case was
18 filed, the following information:

19 (i) The number of instances in which a tenant voluntarily
20 vacated.

21 (ii) The number of instances in which a tenant vacated a unit
22 prior to the providing of the notice.

23 (iii) The number of cases in which the notice provided pursuant
24 to subdivision (a) was erroneously sent to the tenant. This shall
25 include a list of the reasons, if known, for the erroneously sent
26 notice, such as reliance on information on the suspected violator's
27 name or address that was incorrect, a clerical error, or any other
28 reason.

29 (iv) The number of other resolutions, and specifying the type
30 of resolution.

31 (K) For each case in which a notice was issued and the tenants
32 either vacated the premises before a judgment in the unlawful
33 detainer action or lost the unlawful detainer action and were
34 evicted, the following information:

35 (i) ~~Street address, city, and ZIP Code of residence where the~~
36 ~~tenants relocated, to the extent known.~~

37 (ii) ~~Whether the noticed tenant has been arrested for any of the~~
38 ~~offenses specified in subdivision (c) in the 12 months before or~~
39 ~~after the date of the notice. evicted, the street address, city, and~~

1 *ZIP Code of residence where the tenants relocated, to the extent*
2 *known.*

3 (2) (A) Information compiled pursuant to this section shall be
4 reported annually to the California Research Bureau on or before
5 January 20.

6 (B) The California Research Bureau shall thereafter submit a
7 brief report to the Senate and Assembly Committees on Judiciary
8 once on or before March 20, 2011, and once on or before March
9 20, 2013, summarizing the information collected pursuant to this
10 section and evaluating the merits of the pilot programs established
11 by this section. The report for this section may be combined with
12 the California Research Bureau report submitted for the pilot
13 program established by Section 3486 of the Civil Code.

14 (3) *Personally identifiable information submitted to the*
15 *California Research Bureau pursuant to this section shall be*
16 *confidential and shall not be publicly disclosed.*

17 (h) This section shall remain in effect only until January 1, 2014,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2014, deletes or extends that date.

20 SEC. 2. Section 3486 is added to the Civil Code, to read:

21 3486. (a) To abate the nuisance caused by illegal conduct
22 involving a controlled substance purpose on real property, the city
23 prosecutor or city attorney may file, in the name of the people, an
24 action for unlawful detainer against any person who is in violation
25 of the nuisance or illegal purpose provisions of subdivision 4 of
26 Section 1161 of the Code of Civil Procedure, with respect to that
27 controlled substance purpose. In filing this action, which shall be
28 based upon an arrest report or other report by a law enforcement
29 agency, reporting an offense committed on the property and
30 documented by the observations of a police officer, the city
31 prosecutor or city attorney shall utilize the procedures set forth in
32 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of
33 the Code of Civil Procedure, except that in cases filed under this
34 section, the following also shall apply:

35 (1) (A) Prior to filing an action pursuant to this section, the city
36 prosecutor or city attorney shall give 30 calendar days' written
37 notice to the owner, requiring the owner to file an action for the
38 removal of the person who is in violation of the nuisance or illegal
39 purpose provisions of subdivision 4 of Section 1161 of the Code
40 of Civil Procedure with respect to a controlled substance purpose.

(B) This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and an advisement to the owner of the assignment provision contained in subparagraph (D). The notice shall be served upon the owner and the tenant in accordance with subdivision (e).

(C) The notice to the tenant shall, *in at least 14-point bold type*, meet the following requirements:

(i) The notice shall contain the following language:

“(Date)

(Name of tenant)

(Address of tenant)

Re: Civil Code Section 3486

Dear (name of tenant):

This letter is to inform you that an eviction action may soon be filed in court against you for suspected drug activity. According to state law, Civil Code Section 3486 provides for eviction of persons engaging in such conduct, as described below.

(Name of police department) records indicate that you, (name of arrestee), were arrested on (date) for violations of (list violations) on (address of property).

A letter has been sent to the property owner(s) advising of your arrest and the requirements of state law, as well as the landlord’s option to assign the unlawful detainer action to the (name of city attorney or prosecutor’s office).

A list of legal assistance providers is provided below. Please note, this list is not exclusive and is provided for your information only; the (name of city attorney or prosecutor’s office) does not endorse or recommend any of the listed agencies.

Sincerely,

1 (Name of deputy city attorney or city prosecutor)

2 Deputy City (Attorney or Prosecutor)

3
4 Notice to Tenant: This notice is not a notice of eviction. You
5 should call ~~(name of attorney)~~ *(name of the city attorney or*
6 *prosecutor pursuing the action)* at (telephone number) or a legal
7 assistance provider to stop the eviction action if any of the
8 following is applicable:

9 (i)

10 (1) You are not the person named in this notice.

11 (ii)

12 (2) The person named in the notice does not live with you.

13 (iii)

14 (3) The person named in the notice has permanently moved.

15 (iv)

16 (4) You do not know the person named in the notice.

17 (5) *You want to request that only the person involved in the*
18 *nuisance be evicted, allowing the other residents to stay.*

19 (v)

20 (6) You have any other legal defense or legal reason to stop the
21 eviction action.

22 A list of legal assistance providers is attached to this notice.
23 Some provide free legal assistance if you are eligible.”

24
25 (ii) The notice shall be provided to the tenant in English and,
26 as translated, in all of the languages identified in subdivision (a)
27 of Section 1632 of the Civil Code.

28 (D) The owner shall, within 30 calendar days of the mailing of
29 the written notice, either provide the city prosecutor or city attorney
30 with all relevant information pertaining to the unlawful detainer
31 case, or provide a written explanation setting forth any
32 safety-related reasons for noncompliance, and an assignment to
33 the city prosecutor or city attorney of the right to bring an unlawful
34 detainer action against the tenant.

35 (E) The assignment shall be on a form provided by the city
36 prosecutor or city attorney and may contain a provision for costs
37 of investigation, discovery, and reasonable attorney’s fees, in an
38 amount not to exceed six hundred dollars (\$600).

39 (F) If the city prosecutor or city attorney accepts the assignment
40 of the right of the owner to bring the unlawful detainer action, the

1 owner shall retain all other rights and duties, including the handling
2 of the tenant's personal property, following issuance of the writ
3 of possession and its delivery to and execution by the appropriate
4 agency.

5 (2) Upon the failure of the owner to file an action pursuant to
6 this section, or to respond to the city prosecutor or city attorney
7 as provided in paragraph (1), or having filed an action, if the owner
8 fails to prosecute it diligently and in good faith, the city prosecutor
9 or city attorney may file and prosecute the action, and join the
10 owner as a defendant in the action. This action shall have
11 precedence over any similar proceeding thereafter brought by the
12 owner, or to one previously brought by the owner and not
13 prosecuted diligently and in good faith. Service of the summons
14 and complaint upon the defendant owner shall be in accordance
15 with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the
16 Code of Civil Procedure.

17 (3) If a jury or court finds the defendant tenant guilty of unlawful
18 detainer in a case filed pursuant to paragraph (2), the city
19 prosecutor or city attorney may be awarded costs, including the
20 costs of investigation and discovery and reasonable attorney's fees.
21 These costs shall be assessed against the defendant owner, to whom
22 notice was directed pursuant to paragraph (1), and once an abstract
23 of judgment is recorded, it shall constitute a lien on the subject
24 real property.

25 (4) Nothing in this ~~article~~ *section* shall prevent a local governing
26 body from adopting and enforcing laws, consistent with this article,
27 relating to drug abatement. Where local laws duplicate or
28 supplement this ~~article~~, ~~this article section~~, *this section* shall be
29 construed as providing alternative remedies and not preempting
30 the field.

31 (5) Nothing in this ~~article~~ *section* shall prevent a tenant from
32 receiving relief against a forfeiture of a lease pursuant to Section
33 1179 of the Code of Civil Procedure.

34 (b) In any proceeding brought under this section, the court may,
35 upon a showing of good cause, issue a partial eviction ordering
36 the removal of any person, including, but not limited to, members
37 of the tenant's household if the court finds that the person has
38 engaged in the activities described in subdivision (a). Persons
39 removed pursuant to this section may be permanently barred from
40 returning to or reentering any portion of the entire premises. The

1 court may further order as an express condition of the tenancy that
2 the remaining tenants shall not give permission to or invite any
3 person who has been removed pursuant to this subdivision to return
4 to or reenter any portion of the entire premises.

5 (c) For the purposes of this section, “controlled substance
6 purpose” means the manufacture, cultivation, importation into the
7 state, transportation, possession, possession for sale, sale,
8 furnishing, administering, or giving away, or providing a place to
9 use or fortification of a place involving, cocaine, phencyclidine,
10 heroin, methamphetamine, or any other controlled substance, in a
11 violation of subdivision (a) of Section 11350, Section 11351,
12 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or
13 Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5,
14 11379.6, or 11383 of the Health and Safety Code.

15 (d) Notwithstanding subdivision (b) of Section 68097.2 of the
16 Government Code, a public entity may waive all or part of the
17 costs incurred in furnishing the testimony of a peace officer in an
18 unlawful detainer action brought pursuant to this section.

19 (e) The notice and documentation described in paragraph (1)
20 of subdivision (a) shall be given in writing and may be given either
21 by personal delivery or by deposit in the United States mail in a
22 sealed envelope, postage prepaid, addressed to the owner at the
23 address known to the public entity giving the notice, or as shown
24 on the last equalized assessment roll, if not known. Separate notice
25 of not less than 30 calendar days and documentation shall be
26 provided to the tenant in accordance with this subdivision. Service
27 by mail shall be deemed to be completed at the time of deposit in
28 the United States mail. Proof of giving the notice may be made by
29 a declaration signed under penalty of perjury by any employee of
30 the public entity which shows service in conformity with this
31 section.

32 (f) This section shall apply only to the following courts:

33 (1) In the County of Los Angeles, any court having jurisdiction
34 over unlawful detainer cases involving real property situated in
35 the City of Los Angeles, the City of Long Beach, or the City of
36 Palmdale.

37 (2) In the County of San Diego, any court having jurisdiction
38 over unlawful detainer cases involving real property situated in
39 the City of San Diego.

1 (3) In the County of Alameda, any court with jurisdiction over
2 unlawful detainer cases involving real property situated in the City
3 of Oakland.

4 (4) In the County of Sacramento, any court with jurisdiction
5 over unlawful detainer cases involving real property situated in
6 the City of Sacramento.

7 (g) (1) The city attorney and city prosecutor of each
8 participating jurisdiction shall provide to the California Research
9 Bureau the following information:

10 (A) The number of notices provided pursuant to paragraph (1)
11 of subdivision (a).

12 (B) For each notice provided pursuant to paragraph (1) of
13 subdivision (a), the following information:

14 (i) The name and age, as provided by the landlord, of each
15 person residing at the noticed address.

16 (ii) Whether the person has previously received a notice pursuant
17 to this section from the reporting city attorney or prosecutor, and
18 if so, whether the tenant vacated or was evicted as a result.

19 (C) For the tenant receiving the notice, whether the tenant has
20 previously been arrested (other than an arrest that is the basis of
21 this notice) for any of the offenses specified in subdivision (c).

22 (D) The number of cases filed by an owner, upon notice.

23 *(E) The number of assignments executed by owners to the city*
24 *attorney or prosecutor.*

25 ~~(E)~~

26 *(F) The number of three-day, 30-day, or 60-day notices issued*
27 *by the city attorney or city prosecutor.*

28 ~~(F)~~

29 *(G) The number of cases filed by the city attorney or city*
30 *prosecutor.*

31 *(H) The number of times that an owner is joined as a defendant*
32 *pursuant to this section.*

33 ~~(G)~~

34 *(I) For each case filed by an owner, the city attorney, or the city*
35 *prosecutor, the following information:*

36 (i) The number of judgments ordering an eviction or partial
37 eviction *specifying whether each was a default judgment, stipulated*
38 *judgment, or judgment following trial.*

39 (ii) The number of cases, listed by separate categories, in which
40 the case was withdrawn or in which the tenant prevailed.

1 (iii) The number of other dispositions *and specifying the*
2 *disposition.*

3 (iv) The number of defendants represented by counsel.

4 (v) *Whether the case was a trial by the court or a trial by jury.*

5 (vi) *Whether an appeal was taken, and, if so, the result of the*
6 *appeal.*

7 ~~(v)~~

8 (vii) The number of cases in which partial eviction was
9 requested, and the number of cases in which the court ordered a
10 partial eviction.

11 ~~(H)~~

12 (J) For each case in which a notice was issued, but no case was
13 filed, the following information:

14 (i) The number of instances in which a tenant voluntarily vacated
15 subsequent to receiving the notice from the owner.

16 (ii) The number of instances in which a tenant vacated a unit
17 prior to the providing of the notice.

18 (iii) *The number of cases in which the notice provided pursuant*
19 *to subdivision (a) was erroneously sent to the tenant. This shall*
20 *include a list of the reasons, if known, for the erroneously sent*
21 *notice, such as reliance on information on the suspected violator's*
22 *name or address that was incorrect, a clerical error, or other*
23 *reason.*

24 ~~(iii)~~

25 (iv) The number of other resolutions.

26 ~~(H)~~

27 (K) For each case in which a notice was issued and the tenants
28 either vacated the premises before a judgment in the unlawful
29 detainer action or were evicted, the street address, city, and ZIP
30 Code of residence where the tenants relocated, to the extent known.

31 (2) (A) Information compiled pursuant to this section shall be
32 reported annually to the California Research Bureau on or before
33 January 20.

34 (B) The California Research Bureau shall thereafter submit a
35 brief report to the Senate and Assembly Committees on Judiciary
36 once on or before March 20, 2011, and once on or before March
37 20, 2013, summarizing the information collected pursuant to this
38 section and evaluating the merits of the pilot programs established
39 by this section. The report for this section may be combined with

1 the California Research Bureau report submitted for the pilot
2 program established by Section 3485 of the Civil Code.

3 *(3) Personally identifiable information submitted to the*
4 *California Research Bureau pursuant to this section shall be*
5 *confidential and shall not be publicly disclosed.*

6 (h) This section shall remain in effect only until January 1, 2014,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2014, deletes or extends that date.

9 SEC. 3. Section 3486 is added to the Civil Code, to read:

10 3486. (a) To abate the nuisance caused by illegal conduct
11 involving a controlled substance purpose on real property, the city
12 prosecutor or city attorney may file, in the name of the people, an
13 action for unlawful detainer against any person who is in violation
14 of the nuisance or illegal purpose provisions of subdivision 4 of
15 Section 1161 of the Code of Civil Procedure, with respect to that
16 controlled substance purpose. In filing this action, which shall be
17 based upon an arrest report or other report by a law enforcement
18 agency, reporting an offense committed on the property and
19 documented by the observations of a police officer, the city
20 prosecutor or city attorney shall use the procedures set forth in
21 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of
22 the Code of Civil Procedure, except that in cases filed under this
23 section, the following also shall apply:

24 (1) (A) Prior to filing an action pursuant to this section, the city
25 prosecutor or city attorney shall give 30 calendar days' written
26 notice to the owner, requiring the owner to file an action for the
27 removal of the person who is in violation of the nuisance or illegal
28 purpose provisions of subdivision 4 of Section 1161 of the Code
29 of Civil Procedure with respect to a controlled substance purpose.

30 (B) This notice shall include sufficient documentation
31 establishing a violation of the nuisance or illegal purpose provisions
32 of subdivision 4 of Section 1161 of the Code of Civil Procedure
33 and an advisement to the owner of the assignment provision
34 contained in subparagraph (D). The notice shall be served upon
35 the owner and the tenant in accordance with subdivision (e).

36 (C) The notice to the tenant shall, *in at least 14-point bold type*,
37 meet the following requirements:

38 (i) The notice shall contain the following language:

39
40 “(Date)

(Name of tenant)
(Address of tenant)

Re: Civil Code Section 3486

Dear (name of tenant):

This letter is to inform you that an eviction action may soon be filed in court against you for suspected drug activity. According to state law, Civil Code Section 3486 provides for eviction of persons engaging in such conduct, as described below.

(Name of police department) records indicate that you, (name of arrestee), were arrested on (date) for violations of (list violations) on (address of property).

A letter has been sent to the property owner(s) advising of your arrest and the requirements of state law, as well as the landlord's option to assign the unlawful detainer action to the (name of city attorney or prosecutor's office).

A list of legal assistance providers is provided below. Please note, this list is not exclusive and is provided for your information only; the (name of city attorney or prosecutor's office) does not endorse or recommend any of the listed agencies.

Sincerely,

(Name of deputy city attorney or city prosecutor)
Deputy City (Attorney or Prosecutor)

Notice to Tenant: This notice is not a notice of eviction. You should call ~~(name of attorney)~~ *(name of the city attorney or prosecutor pursuing the action)* at (telephone number) or a legal assistance provider to stop the eviction action if any of the following is applicable:

- (i)
- (1) You are not the person named in this notice.
- (ii)

1 (2) The person named in the notice does not live with you.

2 ~~(iii)~~

3 (3) The person named in the notice has permanently moved.

4 ~~(iv)~~

5 (4) You do not know the person named in the notice.

6 (5) *You want to request that only the person involved in the*
7 *nuisance be evicted, allowing the other residents to stay.*

8 ~~(v)~~

9 (6) You have any other legal defense or legal reason to stop the
10 eviction action.

11 A list of legal assistance providers is attached to this notice.
12 Some provide free legal assistance if you are eligible.”

13
14 (ii) The notice shall be provided to the tenant in English and,
15 as translated, in all of the languages identified in subdivision (a)
16 of Section 1632 of the Civil Code.

17 (D) The owner shall, within 30 calendar days of the mailing of
18 the written notice, either provide the city prosecutor or city attorney
19 with all relevant information pertaining to the unlawful detainer
20 case, or provide a written explanation setting forth any
21 safety-related reasons for noncompliance, and an assignment to
22 the city prosecutor or city attorney of the right to bring an unlawful
23 detainer action against the tenant.

24 (E) The assignment shall be on a form provided by the city
25 prosecutor or city attorney and may contain a provision for costs
26 of investigation, discovery, and reasonable attorney’s fees, in an
27 amount not to exceed six hundred dollars (\$600).

28 (F) If the city prosecutor or city attorney accepts the assignment
29 of the right of the owner to bring the unlawful detainer action, the
30 owner shall retain all other rights and duties, including the handling
31 of the tenant’s personal property, following issuance of the writ
32 of possession and its delivery to and execution by the appropriate
33 agency.

34 (2) Upon the failure of the owner to file an action pursuant to
35 this section, or to respond to the city prosecutor or city attorney
36 as provided in paragraph (1), or having filed an action, if the owner
37 fails to prosecute it diligently and in good faith, the city prosecutor
38 or city attorney may file and prosecute the action, and join the
39 owner as a defendant in the action. This action shall have
40 precedence over any similar proceeding thereafter brought by the

owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) Nothing in this ~~article~~ *section* shall prevent a local governing body from adopting and enforcing laws, consistent with this article, relating to drug abatement. Where local laws duplicate or supplement this ~~article~~, ~~this article section~~, *this section* shall be construed as providing alternative remedies and not preempting the field.

(5) Nothing in this ~~article~~ *section* shall prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.

(c) For the purposes of this section, "controlled substance purpose" means the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, cocaine, phencyclidine, heroin, methamphetamine, or any other controlled substance, in a violation of subdivision (a) of Section 11350, Section 11351,

1 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or
2 Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5,
3 11379.6, or 11383 of the Health and Safety Code.

4 (d) Notwithstanding subdivision (b) of Section 68097.2 of the
5 Government Code, a public entity may waive all or part of the
6 costs incurred in furnishing the testimony of a peace officer in an
7 unlawful detainer action brought pursuant to this section.

8 (e) The notice and documentation described in paragraph (1)
9 of subdivision (a) shall be given in writing and may be given either
10 by personal delivery or by deposit in the United States mail in a
11 sealed envelope, postage prepaid, addressed to the owner at the
12 address known to the public entity giving the notice, or as shown
13 on the last equalized assessment roll, if not known. Separate notice
14 of not less than 30 calendar days and documentation shall be
15 provided to the tenant in accordance with this subdivision. Service
16 by mail shall be deemed to be completed at the time of deposit in
17 the United States mail. Proof of giving the notice may be made by
18 a declaration signed under penalty of perjury by any employee of
19 the public entity which shows service in conformity with this
20 section.

21 (f) This section shall apply only in the County of Los Angeles
22 to any court having jurisdiction over unlawful detainer cases
23 involving real property situated in the City of Los Angeles.

24 (g) This section shall become operative on January 1, 2014,
25 *only if the City of Los Angeles has regularly reported to the*
26 *California Research Bureau as required by this section, as it read*
27 *during the period from January 1, 2010, to January 1, 2014,*
28 *inclusive.*

29 SEC. 4. Section 1161 of the Code of Civil Procedure, as
30 amended by Section 2 of Chapter 440 of the Statutes of 2008, is
31 amended to read:

32 1161. A tenant of real property, for a term less than life, or the
33 executor or administrator of his or her estate heretofore qualified
34 and now acting or hereafter to be qualified and act, is guilty of
35 unlawful detainer:

36 1. When he or she continues in possession, in person or by
37 subtenant, of the property, or any part thereof, after the expiration
38 of the term for which it is let to him or her; provided the expiration
39 is of a nondefault nature however brought about without the
40 permission of his or her landlord, or the successor in estate of his

1 or her landlord, if applicable; including the case where the person
2 to be removed became the occupant of the premises as a servant,
3 employee, agent, or licensee and the relation of master and servant,
4 or employer and employee, or principal and agent, or licensor and
5 licensee, has been lawfully terminated or the time fixed for
6 occupancy by the agreement between the parties has expired; but
7 nothing in this subdivision shall be construed as preventing the
8 removal of the occupant in any other lawful manner; but in case
9 of a tenancy at will, it must first be terminated by notice, as
10 prescribed in the Civil Code.

11 2. When he or she continues in possession, in person or by
12 subtenant, without the permission of his or her landlord, or the
13 successor in estate of his or her landlord, if applicable, after default
14 in the payment of rent, pursuant to the lease or agreement under
15 which the property is held, and three days' notice, in writing,
16 requiring its payment, stating the amount which is due, the name,
17 telephone number, and address of the person to whom the rent
18 payment shall be made, and, if payment may be made personally,
19 the usual days and hours that person will be available to receive
20 the payment (provided that, if the address does not allow for
21 personal delivery, then it shall be conclusively presumed that upon
22 the mailing of any rent or notice to the owner by the tenant to the
23 name and address provided, the notice or rent is deemed received
24 by the owner on the date posted, if the tenant can show proof of
25 mailing to the name and address provided by the owner), or the
26 number of an account in a financial institution into which the rental
27 payment may be made, and the name and street address of the
28 institution (provided that the institution is located within five miles
29 of the rental property), or if an electronic funds transfer procedure
30 has been previously established, that payment may be made
31 pursuant to that procedure, or possession of the property, shall
32 have been served upon him or her and if there is a subtenant in
33 actual occupation of the premises, also upon the subtenant.

34 The notice may be served at any time within one year after the
35 rent becomes due. In all cases of tenancy upon agricultural lands,
36 where the tenant has held over and retained possession for more
37 than 60 days after the expiration of the term without any demand
38 of possession or notice to quit by the landlord or the successor in
39 estate of his or her landlord, if applicable, he or she shall be deemed
40 to be holding by permission of the landlord or successor in estate

1 of his or her landlord, if applicable, and shall be entitled to hold
2 under the terms of the lease for another full year, and shall not be
3 guilty of an unlawful detainer during that year, and the holding
4 over for that period shall be taken and construed as a consent on
5 the part of a tenant to hold for another year.

6 3. When he or she continues in possession, in person or by
7 subtenant, after a neglect or failure to perform other conditions or
8 covenants of the lease or agreement under which the property is
9 held, including any covenant not to assign or sublet, than the one
10 for the payment of rent, and three days' notice, in writing, requiring
11 the performance of such conditions or covenants, or the possession
12 of the property, shall have been served upon him or her, and if
13 there is a subtenant in actual occupation of the premises, also, upon
14 the subtenant. Within three days after the service of the notice, the
15 tenant, or any subtenant in actual occupation of the premises, or
16 any mortgagee of the term, or other person interested in its
17 continuance, may perform the conditions or covenants of the lease
18 or pay the stipulated rent, as the case may be, and thereby save the
19 lease from forfeiture; provided, if the conditions and covenants of
20 the lease, violated by the lessee, cannot afterward be performed,
21 then no notice, as last prescribed herein, need be given to the lessee
22 or his or her subtenant, demanding the performance of the violated
23 conditions or covenants of the lease.

24 A tenant may take proceedings, similar to those prescribed in
25 this chapter, to obtain possession of the premises let to a subtenant
26 or held by a servant, employee, agent, or licensee, in case of his
27 or her unlawful detention of the premises underlet to him or her
28 or held by him or her.

29 4. Any tenant, subtenant, or executor or administrator of his or
30 her estate heretofore qualified and now acting, or hereafter to be
31 qualified and act, assigning or subletting or committing waste upon
32 the demised premises, contrary to the conditions or covenants of
33 his or her lease, or maintaining, committing, or permitting the
34 maintenance or commission of a nuisance upon the demised
35 premises or using the premises for an unlawful purpose, thereby
36 terminates the lease, and the landlord, or his or her successor in
37 estate, shall upon service of three days' notice to quit upon the
38 person or persons in possession, be entitled to restitution of
39 possession of the demised premises under this chapter. For
40 purposes of this subdivision, a person who commits an offense

1 described in subdivision (c) of Section 3485 of the Civil Code, or
2 subdivision (c) of Section 3486 of the Civil Code, or uses the
3 premises to further the purpose of that offense shall be deemed to
4 have committed a nuisance upon the premises. For purposes of
5 this subdivision, if a person commits an act of domestic violence
6 as defined in Section 6211 of the Family Code, sexual assault as
7 defined in Section 261, 261.5, 262, 286, 288a, or 289 of the Penal
8 Code, or stalking as defined in Section 1708.7 of the Civil Code,
9 against another tenant or subtenant on the premises there is a
10 rebuttable presumption affecting the burden of proof that the person
11 has committed a nuisance upon the premises, provided, however,
12 that this shall not apply if the victim of the act of domestic violence,
13 sexual assault, or stalking, or a household member of the victim,
14 other than the perpetrator, has not vacated the premises. This
15 subdivision shall not be construed to supersede the provisions of
16 the Violence Against Women and Department of Justice
17 Reauthorization Act of 2005 (Public Law 109-162) that permit the
18 removal from a lease of a tenant who engages in criminal acts of
19 physical violence against cotenants.

20 5. When he or she gives written notice as provided in Section
21 1946 of the Civil Code of his or her intention to terminate the
22 hiring of the real property, or makes a written offer to surrender
23 which is accepted in writing by the landlord, but fails to deliver
24 possession at the time specified in that written notice, without the
25 permission of his or her landlord, or the successor in estate of the
26 landlord, if applicable.

27 As used in this section, tenant includes any person who hires
28 real property except those persons whose occupancy is described
29 in subdivision (b) of Section 1940 of the Civil Code.

30 This section shall remain in effect only until January 1, 2012,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2012, deletes or extends that date.

33 SEC. 5. Section 1161 of the Code of Civil Procedure, as added
34 by Section 3 of Chapter 440 of the Statutes of 2008, is amended
35 to read:

36 1161. A tenant of real property, for a term less than life, or the
37 executor or administrator of his or her estate heretofore qualified
38 and now acting or hereafter to be qualified and act, is guilty of
39 unlawful detainer:

1 1. When he or she continues in possession, in person or by
2 subtenant, of the property, or any part thereof, after the expiration
3 of the term for which it is let to him or her; provided the expiration
4 is of a nondefault nature however brought about without the
5 permission of his or her landlord, or the successor in estate of his
6 or her landlord, if applicable; including the case where the person
7 to be removed became the occupant of the premises as a servant,
8 employee, agent, or licensee and the relation of master and servant,
9 or employer and employee, or principal and agent, or licensor and
10 licensee, has been lawfully terminated or the time fixed for
11 occupancy by the agreement between the parties has expired; but
12 nothing in this subdivision shall be construed as preventing the
13 removal of the occupant in any other lawful manner; but in case
14 of a tenancy at will, it must first be terminated by notice, as
15 prescribed in the Civil Code.

16 2. When he or she continues in possession, in person or by
17 subtenant, without the permission of his or her landlord, or the
18 successor in estate of his or her landlord, if applicable, after default
19 in the payment of rent, pursuant to the lease or agreement under
20 which the property is held, and three days' notice, in writing,
21 requiring its payment, stating the amount which is due, the name,
22 telephone number, and address of the person to whom the rent
23 payment shall be made, and, if payment may be made personally,
24 the usual days and hours that person will be available to receive
25 the payment (provided that, if the address does not allow for
26 personal delivery, then it shall be conclusively presumed that upon
27 the mailing of any rent or notice to the owner by the tenant to the
28 name and address provided, the notice or rent is deemed received
29 by the owner on the date posted, if the tenant can show proof of
30 mailing to the name and address provided by the owner), or the
31 number of an account in a financial institution into which the rental
32 payment may be made, and the name and street address of the
33 institution (provided that the institution is located within five miles
34 of the rental property), or if an electronic funds transfer procedure
35 has been previously established, that payment may be made
36 pursuant to that procedure, or possession of the property, shall
37 have been served upon him or her and if there is a subtenant in
38 actual occupation of the premises, also upon the subtenant.

39 The notice may be served at any time within one year after the
40 rent becomes due. In all cases of tenancy upon agricultural lands,

1 where the tenant has held over and retained possession for more
2 than 60 days after the expiration of the term without any demand
3 of possession or notice to quit by the landlord or the successor in
4 estate of his or her landlord, if applicable, he or she shall be deemed
5 to be holding by permission of the landlord or successor in estate
6 of his or her landlord, if applicable, and shall be entitled to hold
7 under the terms of the lease for another full year, and shall not be
8 guilty of an unlawful detainer during that year, and the holding
9 over for that period shall be taken and construed as a consent on
10 the part of a tenant to hold for another year.

11 3. When he or she continues in possession, in person or by
12 subtenant, after a neglect or failure to perform other conditions or
13 covenants of the lease or agreement under which the property is
14 held, including any covenant not to assign or sublet, than the one
15 for the payment of rent, and three days' notice, in writing, requiring
16 the performance of such conditions or covenants, or the possession
17 of the property, shall have been served upon him or her, and if
18 there is a subtenant in actual occupation of the premises, also, upon
19 the subtenant. Within three days after the service of the notice, the
20 tenant, or any subtenant in actual occupation of the premises, or
21 any mortgagee of the term, or other person interested in its
22 continuance, may perform the conditions or covenants of the lease
23 or pay the stipulated rent, as the case may be, and thereby save the
24 lease from forfeiture; provided, if the conditions and covenants of
25 the lease, violated by the lessee, cannot afterward be performed,
26 then no notice, as last prescribed herein, need be given to the lessee
27 or his or her subtenant, demanding the performance of the violated
28 conditions or covenants of the lease.

29 A tenant may take proceedings, similar to those prescribed in
30 this chapter, to obtain possession of the premises let to a subtenant
31 or held by a servant, employee, agent, or licensee, in case of his
32 or her unlawful detention of the premises underlet to him or her
33 or held by him or her.

34 4. Any tenant, subtenant, or executor or administrator of his or
35 her estate heretofore qualified and now acting, or hereafter to be
36 qualified and act, assigning or subletting or committing waste upon
37 the demised premises, contrary to the conditions or covenants of
38 his or her lease, or maintaining, committing, or permitting the
39 maintenance or commission of a nuisance upon the demised
40 premises or using the premises for an unlawful purpose, thereby

1 terminates the lease, and the landlord, or his or her successor in
2 estate, shall upon service of three days' notice to quit upon the
3 person or persons in possession, be entitled to restitution of
4 possession of the demised premises under this chapter. For
5 purposes of this subdivision, a person who commits an offense
6 described in subdivision (c) of Section 3485 of the Civil Code, or
7 subdivision (c) of Section 3486 of the Civil Code, or uses the
8 premises to further the purpose of that offense shall be deemed to
9 have committed a nuisance upon the premises.

10 5. When he or she gives written notice as provided in Section
11 1946 of the Civil Code of his or her intention to terminate the
12 hiring of the real property, or makes a written offer to surrender
13 which is accepted in writing by the landlord, but fails to deliver
14 possession at the time specified in that written notice, without the
15 permission of his or her landlord, or the successor in estate of the
16 landlord, if applicable.

17 As used in this section, tenant includes any person who hires
18 real property except those persons whose occupancy is described
19 in subdivision (b) of Section 1940 of the Civil Code.

20 This section shall become operative on January 1, 2012.

21 SEC. 6. Section 11571.1 of the Health and Safety Code is
22 repealed.

23 SEC. 7. *Section 11571.1 is added to the Health and Safety*
24 *Code, to read:*

25 *11571.1. (a) Nothing in this article shall prevent a local*
26 *governing body from adopting and enforcing laws, consistent with*
27 *this article, relating to drug abatement. Where local laws duplicate*
28 *or supplement this article, this article shall be construed as*
29 *providing alternative remedies and not preempting the field.*

30 *(b) Nothing in this article shall prevent a tenant from receiving*
31 *relief against a forfeiture of a lease pursuant to Section 1179 of*
32 *the Code of Civil Procedure.*

33 ~~SEC. 7.~~

34 SEC. 8. Due to the unique circumstances and experience of
35 the courts in the County of Los Angeles having jurisdiction over
36 unlawful detainer cases involving real property situated in the City
37 of Los Angeles, with respect to the exercise of authority under the
38 controlled substances pilot program, the Legislature finds and
39 declares that a general statute cannot be made applicable within
40 the meaning of Section 16 of Article IV of the California

1 Constitution. Therefore, the special legislation contained in Section
2 3 of this bill is necessarily applicable only to Los Angeles County
3 courts as that legislation relates to those cases involving real
4 property situated in the City of Los Angeles.

O